



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 7, 1998

Mr. Helmut Talton  
Associate General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Hwy. Building  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701

OR98-2380

Dear Mr. Talton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118834.

The Texas Department of Transportation (the "department") received a request for six categories of information relating to the screening of applicants for a particular job. You state that the department will provide the requestor with most of the information she is seeking. You contend that the remaining information is excepted from disclosure under sections 552.101, 552.117, 552.122, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed a representative sample of the documents at issue.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. A social security number is excepted from disclosure under section 552.101 in conjunction with 1990 amendments to the federal Social Security Act, § 42 U.S.C. § 405(c)(2)(C)(viii)(I), if it is obtained or maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). The submitted information includes an employment application that contains the applicant's

---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

social security number. If the department obtained the social security number pursuant to any provision of law enacted on or after October 1, 1990, then the department must withhold the social security number from disclosure under section 552.101.

You indicate that current and former department employees applied for the job about which the requestor is seeking information. Therefore, some of the documents responsive to the request contain personal information about current and former department employees. Section 552.117 of the Government Code excepts from disclosure the home addresses, home telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the department may withhold information under section 552.117 only for those current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made.

The documents at issue also contain drivers license numbers. You contend that the drivers license numbers are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

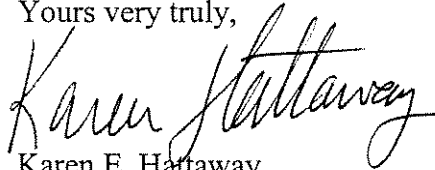
We agree that the drivers license numbers contained in the submitted documents must be withheld from disclosure under section 552.130.

Finally, you contend that the written interview questions and answers used to screen applicants are excepted from disclosure under section 552.122 of the Government Code. Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Having reviewed the interview questions and answers, we find that none of them are excepted from disclosure under section

552.122(b). Thus, the department must release the interview questions and answers to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 118834

Enclosures: Submitted documents

cc: Ms. Elaine Wise  
1008 Floradale Drive  
Austin, Texas 78753  
(w/o enclosures)